

REMARKS

Claims 1-6, 8-16, and 18-20 are pending. Claims 1-6, 8-16, and 18-20 currently stand rejected. No claims have been amended herein. Claims 7 and 17 have been previously canceled. The Applicant respectfully traverses the rejections and requests allowance of claims 1-6, 8-16, and 18-20.

35 U.S.C. § 103(a) Rejection over Sugawara in view of Ovadia'544

Claims 1-6, 8-16, and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sugawara (U.S. Patent No. 6,169,754), in view of Ovadia'544 (U.S. Patent Application Publication No. 2004/0208544). The Applicant respectfully traverses the rejection for at least the following reasons.

Claim 1 recites, in part, “a first interface system configured to receive over a single optical wavelength a first Synchronous Optical Network (SONET) signal including...path overhead and user data *in a first payload*....” Sugawara does not teach or suggest “a first interface system configured to receive over a single optical wavelength a first Synchronous Optical Network (SONET) signal including...path overhead and user data *in a first payload*...” as recited in claim 1. Instead, Sugawara discusses transmitting administration and maintenance operation information *through the overhead* between transmission apparatuses (Sugawara, abstract, lines 1-6 and column 10, lines 20-27), and thus does not teach or suggest a first SONET signal including path overhead and user data *in a payload* as recited in claim 1.

The inclusion of Ovadia'544 does not overcome the limitations of Sugawara, nor render such limitations obvious. Ovadia'544 does not teach or suggest transferring path overhead and user data *in a first payload*...” as recited in claim 1. Ovadia'544 does not discuss SONET signals which incorporate path overhead and user data in a first payload. Instead, Ovadia'544 discusses sending control labels asynchronously to corresponding optical burst data signals to pre-reserve time slots for the optical burst data signals (Ovadia'544, paragraph 29, lines 19-21), and thus path overhead and user data are not transferred in a first payload as recited in claim 1.

Based upon the above comments, Sugawara and Ovadia'544, neither separately nor in combination, teach or suggest at least “a first interface system configured to receive over a single optical wavelength a first Synchronous Optical Network (SONET) signal including...path

overhead and user data *in a first payload...*” as recited in claim 1, and thus do not teach or suggest all of the limitations of claim 1.

Thus, the Applicant contends that claim 1 is allowable over Sugawara in view of Ovadia’544, and such indication is respectfully requested. Claim 11 contains limitations similar to claim 1 and is therefore respectfully asserted to be allowable over the art of record for the same reasons as claim 1.

While separately allowable over the art of record, dependent claims 2-6, 8-10, 12-16, and 18-20 depend from otherwise allowable independent claims. The Applicant therefore refrains from a discussion of the rejection of claims 2-6, 8-10, 12-16, and 18-20 under 35 U.S.C. § 103(a) for the sake of brevity.

Thus, in light of the discussion above, the Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection over Sugawara in view of Ovadia’544 of claims 1-6, 8-16, and 18-20.

35 U.S.C. § 103(a) Rejection over Cook in view of Ovadia’471

Claims 1-6, 8-16, and 18-20 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cook (U.S. Patent Application Publication No. 2002/0103926), in view of Ovadia’471 (U.S. Patent Application Publication No. 2003/0198471). The Applicant respectfully traverses the rejection for at least the following reasons.

The final Office Action cites Cook as disclosing a communication system comprising a first interface system configured to receive over a single optical wavelength a first Synchronous Optical Network (SONET) signal including first section overhead and first line overhead in a first transport overhead and including path overhead and user data in a first payload, and in response, to transfer the first section overhead, the first line overhead, the path overhead, and the user data; and a second interface system configured to receive the first section overhead, the first line overhead, the path overhead, and the user data, and in response, to regenerate the first SONET signal including the first section overhead and the first line overhead in the first transport overhead and including the path overhead and the user data in the first payload, and to transfer the regenerated first SONET signal, as recited in claim 1. (See final Office Action, pages 4-5.)

However, Cook is an improper reference for the limitations described above for claim 1, and the rejection should be withdrawn. In order to use a reference in a 35 U.S.C. § 103(a) rejection, the reference must be a valid 35 U.S.C. § 102 reference (MPEP § 2141.01(I)). MPEP § 706.02(a) states “In order to determine which section of 35 U.S.C. 102 applies, the effective filing date of the application must be determined and compared with the date of the reference.”

Cook has a priority date of December 19, 2000. However, the present application is a continuation-in-part of U.S. Patent Application 09/899,583, entitled “METHOD AND SYSTEM FOR TRANSPORTING A SECONDARY COMMUNICATION SIGNAL WITH A PRIMARY COMMUNICATION SIGNAL”, and filed on July 6, 2001; which is a continuation of U.S. Patent Application 09/085,539, entitled “METHOD AND SYSTEM FOR TRANSPORTING A SECONDARY COMMUNICATION SIGNAL WITH A PRIMARY COMMUNICATION SIGNAL”, and filed on May 26, 1998; which is a continuation of U.S. Patent Application 08/731,818, entitled “METHOD AND SYSTEM FOR TRANSPORTING A SECONDARY COMMUNICATION SIGNAL WITH A PRIMARY COMMUNICATION SIGNAL”, and filed on October 22, 1996. The present application thus has a priority date of October 22, 1996.

The priority date of Cook (December 19, 2000) is *after* the priority date of the above referenced limitations found in claim 1 of the present application (October 22, 1996). Thus, Cook is an improper 35 U.S.C. § 102 reference and cannot be used in a 35 U.S.C. § 103(a) rejection. Therefore, independent claim 1 is patentable over the cited references.

Based on the foregoing comments, the Applicant contends that claim 1 is allowable over Cook in view of Ovadia’471, and such indication is respectfully requested. Claim 11 contains limitations similar to claim 1 and is therefore respectfully asserted to be allowable over the art of record for the same reasons as claim 1.

While separately allowable over the art of record, dependent claims 2-6, 8-10, 12-16, and 18-20 depend from otherwise allowable independent claims. The Applicant therefore refrains from a discussion of the rejection of claims 2-6, 8-10, 12-16, and 18-20 under 35 U.S.C. § 103(a) for the sake of brevity.

Thus, in light of the discussion above, the Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection over Cook in view of Ovadia’471 of claims 1-6, 8-16, and 18-20.

CONCLUSION

Based on the above remarks, the Applicant submits that the claims in their present form are allowable. Additional reasons in support of patentability exist, but such reasons are omitted in the interests of clarity and brevity. The Applicant respectfully requests allowance of the claims at the Examiner's earliest convenience.

The Applicant believes no fees are due with respect to this filing. However, should the Office determine fees are necessary, the Office is hereby authorized to charge Deposit Account No. 210765, accordingly.

Respectfully submitted,

/David J. Bovitz/

SIGNATURE OF PRACTITIONER

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